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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,430	12/11/2003	Mikko Narhi	858-011616-US (PAR)	1827

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PERMAN & GREEN
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FAIRFIELD, CT 06824

EXAMINER	
CASCA, FRED A	

ART UNIT	PAPER NUMBER
2687	

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/733,430	NARHI, MIKKO	
	Examiner	Art Unit	
	Fred A. Casca	2687	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-13 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-13 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on 11 December 2003 is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 3/3/04.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 11-13 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter

Claims 11-13 is drawn to a "program" *per se* as recited in the preamble and as such is non-statutory subject matter. See MPEP § 2106.IV.B.1.a. Data structures not claimed as embodied in computer readable media are descriptive material *per se* and are not statutory because they are not capable of causing functional change in the computer. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure *per se* held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention, which permit the data structure's functionality to be realized. In contrast, a claimed computer readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory. Similarly, computer programs claimed as computer listings *per se*, i.e., the descriptions or expressions of the programs are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional

interrelationships between the computer program and other claimed elements of a computer, which permit the computer program's functionality to be realized.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 5-7, 9-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Reichelt, U.S. Patent No. 6,427,072 B1.

Referring to claim 1, Reichelt discloses a method of facilitating emergency calls made from a radio communication device (Abstract, and col. 2, lines 1-10, "emergency call capability"), the method comprising identifying a call dialed from a radio communication device as being an emergency call (Abstract, and col. 2, lines 1-25, and col. 7, lines 21-45, "emergency call reserve power detector", "microprocessor 12A distinguishes an emergency call"), and in response to said identified emergency call, automatically disabling one or more functions of said radio communication device not required for completion of said identified emergency call (Abstract, col. 2, lines 1-25, col. 7, lines 21-45, and col. 8, lines 23-65, "terminating an ongoing non-emergency call", "when the precondition for such prevention has occurred", note that non emergency calls are controlled, inhibited and even terminated, and inherently in response to the identification of the emergency call).

Referring to claim 2, Reichelt discloses the method according to claim 1, wherein said step of disabling functions is performed without notifying the user of said radio communication device (col. 8, lines 23-38, "automatically terminating an ongoing non-emergency call").

Referring to claim 3, Reichelt discloses the method according to claim 1, wherein said disabled functions comprise radio frequency related functions not required for completion of said emergency call (col. 8, lines 23-38).

Referring to claim 5, Reichelt discloses a radio communication device (Abstract, "mobile telephone with an emergency call capability"), comprising an identifier configured to identify whether a dialed call is an emergency call (Abstract, and col. 2, lines 1-25, and col. 7, lines 21-45, "emergency call reserve power detector", "microprocessor 12A distinguishes an emergency call"), and a controller, responsive to an identified emergency call (col. 2, lines 1-25, and col. 7, lines 21-45, microprocessor), configured to automatically disable one or more functions not required for completing said identified emergency call (col. 2, lines 1-25, col. 7, lines 21-45, and col. 8, lines 23-65, "terminating an ongoing non-emergency call", "when the precondition for such prevention has occurred", note that non emergency calls are controlled, inhibited and even terminated, and inherently in response to the identification of the emergency call).

Referring to claim 6, Reichelt discloses the radio communication device according to claim 5, wherein said controller is further configured to perform said automatic disabling of functions without notifying the user of said radio communication device (col. 8, lines 23-38, "automatically terminating an ongoing non-emergency call").

Referring to claim 7, Reichelt discloses the radio communication device according to claim 5, wherein said disabled functions comprise radio frequency related functions not required for completion of said emergency call (col. 8, lines 23-38).

Referring to claim 9, Reichelt discloses a controller for facilitating emergency calls made from a radio communication device (Abstract, col. 2, lines 1-10, and col. 7, lines 21-45 "emergency call capability", "microprocessor"), wherein said controller is responsive to an identified emergency call dialed from a radio communication device (col. 7, lines 21-45, and col. 8, lines 23-65, "emergency call reserve power detector", "microprocessor 12A distinguishes an emergency call"), and said controller is configured to automatically disable one or more functions of said radio communication device not required for completing said identified emergency call (col. 7, lines 21-45, and col. 8, lines 23-65, "terminating an ongoing non-emergency call", "when the precondition for such prevention has occurred", "automatically terminating an ongoing non-emergency call", note that non emergency calls are controlled, inhibited and even terminated).

Referring to claim 10, Reichelt discloses the controller according to claim 9, wherein said controller is further configured to perform said automatic disabling of

functions without notifying the user of paid radio communication device (col. 8, lines 23-38, "automatically terminating an ongoing non-emergency call").

Referring to claim 11 Reichelt discloses a computer program comprising code adapted the following steps when executed on a data-processing device (Abstract, and col. 2, lines 1-25, and col. 7, lines 21-45, "emergency call reserve power detector", "microprocessor 12A distinguishes an emergency call") to perform identifying a call dialed from a radio communication device as being an emergency call (Abstract, and col. 2, lines 1-25, and col. 7, lines 21-45, "emergency call reserve power detector", "microprocessor 12A distinguishes an emergency call), and in response to said identified emergency call, automatically disabling one or more functions of said radio communication device not required for completion of said identified emergency call (Abstract, col. 2, lines 1-25, col. 7, lines 21-45, and col. 8, lines 23-65, "terminating an ongoing non-emergency call", "when the precondition for such prevention has occurred", note that non emergency calls are controlled, inhibited and even terminated, and inherently in response to the identification of the emergency call).

Referring to claim 12, Reichelt discloses the computer program according to claim 11, further adapted to perform said step of disabling functions without notifying the user of said radio communication device (col. 8, lines 23-38, "automatically terminating an ongoing non-emergency call").

Referring to claim 13, Reichelt discloses the computer program according to claim 11, wherein said computer program is stored on a computer-readable medium (col. 7, lines 21-45, "microprocessor", note that all processors read instructions from a computer readable medium).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,427,072 B1, Reichelt in view of well known prior art (MPEP 2144.03).

Referring to claim 4, Reichelt discloses the method according to claim 1.

Reichelt does not disclose the disabled functions comprise notifications unrelated to the emergency call.

The examiner takes official notice of the fact that it is well known in the art to provide functions to prevent notification.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the method of Richelt by providing functions to prevent notifications such that the disabled functions comprise notifications unrelated to the emergency call, motivation being for the purpose of preventing pop ups and other energy waste

notifications so that the sufficient energy is kept in reserve while in the emergency situation.

Referring to claim 8, Reichelt discloses the radio communication device according to claim 5.

Reichelt does not disclose said disabled functions comprise notifications unrelated to said emergency call.

The examiner takes official notice of the fact that it is well known in the art to provide functions to prevent notification signals.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the method of Richelt by providing functions to prevent notifications such that the disabled functions comprise notifications unrelated to the emergency call, motivation being for the purpose of preventing pop ups and other energy waste notifications so that the sufficient energy is kept in reserve while in the emergency situation.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Penttinen U.S. Patent No. 6,275,481 B1 discloses a method of setting up an emergency call in a wireless system.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred A. Casca whose telephone number is (571) 272-7918. The examiner can normally be reached on Monday through Friday from 9 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid, can be reached at (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RAFAEL PEREZ-GUTIERREZ
PRIMARY EXAMINER
9/6/05